S.B. CIVIL WRIT PETITION NO.457/1996.

(NAHAR SINGH VS. STATE OF RAJASTHAN AND OTHERS)

DATE OF ORDER : 10.07.2007.

HON'BLE MR. GOVIND MATHUR, J.

Mr. M.C. Bhoot for the petitioner.
Mr. Shyam Ladrecha, AGA, for the respondents.

This petition for writ is preferred to assail validity and propriety of the order dated 19.04.1995 passed by learned Board of Revenue, Rajasthan, Ajmer in reference No. 347/93/LR/Sirohi (State of Rajasthan vs. Shri Chhagan Singh). By the order aforesaid, learned Board of Revenue while accepting the reference made to it by the State Government quashed the order dated 19.12.1971 passed by Sub Divisional Officer, Sirohi regularizing 132 bighas and 13 biswas of land in khasra No.692 and 189 bighas and 17 biswas of Khasra No.697 in village Baghsin.

In brief, facts of the case are that the Sub Divisional Officer, Sirohi by the order dated 19.01.1971 regularized possession of Shri Chhagan Singh on agricultural land referred above, accordingly mutation of the land was made in his favour. Out of the land so regularized, Shri Chhagan Singh sold 32 bighas and 13 biswas of land in khasra No.692 village Baghsin to

the present petitioner through a registered sale deed, accordingly entries were made in revenue records. The petitioner received a copy of the order dated 06.01.1996 issued by the Collected, Sirohi to get the petitioner dis-possessed from the land that was purchased by him as referred above. On enquiry, the petitioner came to know that the order dated 06.01.1996 was passed as a consequent to an order dated 19.04.1995 passed by the Board of Revenue, Rajasthan, Ajmer in a reference made to it by the State Government on 12.08.1995.

The contention to challenge the order dated 19.04.1995 passed by the Board of Revenue is that the same was passed without affording an opportunity of hearing, though it was well within the knowledge of the Collector, Sirohi that the land in question was in possession of the petitioner since 1982.

In reply to the writ petition, the stand of the respondents is that due to entries in favour of Shri Chhagan Singh in revenue records, none else than him was party necessary to the proceedings, as such there was no need to implead the petitioner as party to the reference. It is also asserted that Shri Chhagan Singh was not having a valid title relating to the land in question, therefore, the transfer made did not create any right in favour of the petitioner.

Heard counsel for the parties.

It is not in dispute that the land in question is part of khasra No.692 wherein Sub Divisional Officer by its order dated 19.12.1971 regularized possession of Shri Chhagan Singh over a land measuring 189 bighas and 17 biswas. A part of that land was sold to the petitioner in the year 1982 and mutation of the same was also made in his favour in the year 1982 itself. The reference was made to the Board of Revenue by the State Government subsequent thereto. Thus, the State Government was aware of the fact that the petitioner was in possession of the land in question. A person having possession over the land, certainly keeps a valuable interest in the land, therefore, no order adverse to him could have been passed by the Board of Revenue. In the instant matter, the Board of Revenue accepted the reference made to it under an order dated 12.08.1993 i.e. subsequent to sale of land in favour of the petitioner and also subsequent to insertion of the petitioner as tenant in revenue records. The petitioner, thus, being a party interested should have been heard before accepting the reference.

In view of it, the order impugned dated 19.04.1995 is bad in eye of law being passed in violation of principle of natural justice.

Accordingly, this petition for writ is allowed. The order impugned dated 19.04.1995 is quashed. The reference NO.347/93/LR/Sirohi is remanded to the Board of Revenue to decide the same afresh by giving an opportunity of hearing to the petitioner. For the purpose, the petitioner shall appear before the Registrar, Board of Revenue, along with a certified copy of this order on or before September 10th, 2007. In turn, the Registrar shall fix the reference for hearing before Board on an appropriate date.

No order to cost.

(GOVIND MATHUR)J.

Anil/